

REMARKS/ARGUMENTS

Claims 1-15, 17-22, and 27-32 are pending in this application. Claims 1, 9, 13, 19 and 27 are independent claims. Claim 33 has been canceled without prejudice. Claim 34 is a newly added claim. Support for the newly added Claim 34 may be found throughout the Specification and Drawings, especially in FIG. 5 and lines 9-21 at page 7 of Specification.

Claim Rejections – 35 USC § 112

Claim 33 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 33 was rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Applicant respectfully disagrees. However, Claim 33 has been canceled.

Claim Rejections – 35 USC § 102

Claims 1, 9, 13 and 19 were rejected under 35 U.S.C. § 102(e) as being anticipated by Moshfeghi (“Moshfeghi”, U.S. Patent No. 6,476,833). Applicant respectfully traverses these rejections.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Further, “anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Independent Claims 1, 9, 13 and 19 each recite an element of “the user interface template including one or more representations ... each representation corresponding to one of the user interface functions on the remote device” (emphasis added). The is illustrated, for example, by FIG. 5 and lines 9-21 at page 7 of Specification as shown below:

FIG. 5 illustrates an exemplary embodiment 500 of the present invention wherein a variety of representations of a user interface template on an information appliance correspond to functions of a remote device. The user interface template on the information appliance may include a plurality of representations (such as a backward arrow 502, forward arrow 504, keypad 506, horizontal scroll bar 508, vertical scroll bar 510, and browsing functions 512, and the like) that may be programmed to correspond with the functions available on the remote device. For instance, the forward arrow 504 and the backward arrow 502 may be configured to scroll through images if the remote device is a digital video camera 404 (FIG. 4), to change channels if the remote device is a television 414 (FIG. 4), to change music stations if the remote device is a music player such as a stereo 406 (FIG. 4), and the like. Thus, data is received from the remote device and utilized by the information appliance to choose a representation and a corresponding function for the representation, such as viewing, selecting, and/or changing functions and/or output on the remote device (emphasis added).

In rejecting independent Claims 1, 9, 13 and 19, the Patent Office alleged that “the ‘profile parameters’ such as indication of network access and universal resource identifiers (URI) are indeed ‘one or more representations’” (emphasis added) (Office Action, page 10, last three lines). Applicant respectfully disagrees since if “indication of network access” and “universal resource identifiers (URI)” were analogized to “one or more representations” as recited in Claims 1, 9, 13 and 19, then *neither* “indication of network access” *nor* “universal resource identifiers (URI)” corresponds “to one of the user interface functions on the remote device,” as required by Claims 1, 9, 13 and 19. In other words, even if the “indication of network access” and the “universal resource identifiers (URL)” of Moshfeghi were considered to meet the requirement of “one or more representations” on the user interface template, these elements of Moshfeghi still failed to satisfy the requirement in Claims 1, 9, 13 and 19 that “each representation” corresponds “to one of the user interface functions on the remote device.”

Since Moshfeghi fails to teach, disclose, or suggest the element of “the user interface template including one or more representations ... each representation corresponding to one of the user interface functions on the remote device,” the rejection should be withdrawn, and Claims 1, 9, 13 and 19 should be allowed.

Claim Rejections – 35 USC § 103(a)

Claims 1-5, 8-15, 17-22, and 27-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Humpleman et al. (“Humpleman”, U.S. Patent No. 6,288,716) in view of Moshfeghi. Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Humpleman in view of Moshfeghi and further in view of Cragun et al. (“Cragun”, U.S. Patent No. 5,973,683). Applicant respectfully traverses these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. (emphasis added) *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Independent Claims 1, 9, 13, 19, and 27, as amended, each recite an element of “the user interface template including one or more representations ... each representation corresponding to one of the user interface functions on the remote device” (emphasis added). In rejecting Claims 1, 9, 13, 19, and 27, the Patent Office admitted that “Humpleman **does not** teach ... one or more representations” (emphasis added) (Office Action, page 8, lines 7-8), and, instead, relied on Moshfeghi for teaching the foregoing-described element (Office Action, page 10, last three lines). However, as discussed in the foregoing *Claim Rejections – 35 USC § 102* section, Moshfeghi also fails to teach, disclose, or suggest this element. Thus, independent Claims 1, 9, 13, 19, and 27 are nonobvious over Humpleman and Moshfeghi and are therefore allowable.

Claims 2-8, 30 and 34 depend from Claim 1 and are therefore nonobvious due to their dependence upon Claim 1. Claims 10-12 and 31 depend from Claim 9 and are therefore nonobvious due to their dependence upon Claim 9. Claims 14-15 depend from Claim 13 and are therefore nonobvious due to their dependence upon Claim 13. Claims 17-18, 20-22 and 32 depend from Claim 19 and are therefore nonobvious due

to their dependence upon Claim 19. Claims 28-29 depend from Claim 27 and are therefore nonobvious due to their dependence upon Claim 27. Thus, the rejection should be withdrawn, and Claims 2-8, 10-12, 14-15, 17-18, 20-22, 28-32 and 34 should be allowed.

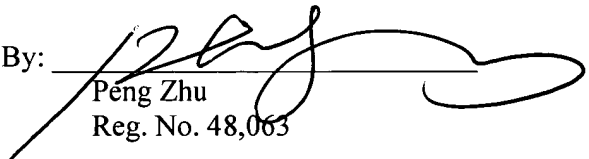
CONCLUSION

In light of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in the case.

Respectfully submitted on behalf of
Gateway, Inc.,

Dated: September 17, 2004

By: _____


Peng Zhu
Reg. No. 48,063

SUITER • WEST PC LLO
14301 FNB Parkway, Suite 220
Omaha, NE 68154
(402) 496-0300 telephone
(402) 496-0333 facsimile